

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

NOV 29 2005

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, RECOMMENDED ORDER
PETITIONER,)	AND ORDER
)	
VS.)	CAUSE NO. A-1643
)	
KENNETH MINARIK,)	
)	
RESPONDENT.)	

This matter came on for hearing on the 21st day of November, 2005, before Martin W. Swanson, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Eric Dunning. Kenneth Minarik (Respondent) was not present and was not represented by an attorney. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was received, testimony was adduced and the matter was taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed insurance producer whose registered address with the Department of Insurance is 2629 North 130th Street, Omaha, Nebraska 68164.
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
3. Respondent did not receive notice of this hearing even though the Department of Insurance attempted to do so by certified mail. The petition and notice of hearing was returned

from the United States Postal Service stating "Undeliverable as Addressed, Forwarding Order Expired" and a hand written note on the envelope stating "10-19-05 moved left no forward!" The petition and notice of hearing was returned to the Department of Insurance on October 24, 2005. See E1.

4. Respondent is a licensed insurance producer appointed with four companies. E2.

5. On or about July 29, 2005, Scott Zager, an Insurance Investigator employed by the Nebraska Department of Insurance, sent a letter to Respondent at Respondent's registered business address via First Class United States Mail. The letter informed Respondent that he had fifteen days to respond. The letter was not returned to the Department of Insurance so it is assumed that it was received. Respondent failed to respond to the letter. E3, E4.

6. On or about August 24, 2005, Jane Francis, Administrator of the Consumer Affairs Division of the Nebraska Department of Insurance, sent a letter to Respondent at Respondent's registered business address via certified mail. The letter informed Respondent that he must respond within fifteen days. The return receipt, which was received by the Department of Insurance on August 30, 2005, indicated a delivery date of August 29, 2005. The return card indicates that Respondent himself signed for the letter and thus had knowledge that the Department of Insurance that he needed to respond to the Department of Insurance. Respondent failed to respond to that letter. E4.

7. Respondent violated Neb. Rev. Stat. §§44-4059(1)(b) and 44-1525(11).

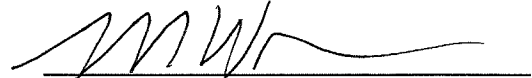
RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent is to pay a \$750 fine. The \$750 fine is due within thirty days from adoption of this recommendation

by the Director of Insurance of the State of Nebraska. The failure to pay this fine within thirty days may result in further administrative action by the Department of Insurance. It is further ordered that Respondent shall answer the July 29, 2005 letter of the Department of Insurance within thirty days. The Nebraska Department of Insurance will continue to retain jurisdiction over this matter until Respondent has complied with all provisions of this order.

Dated this 29th day of November, 2005.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE




Martin W. Swanson
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska, Department of Insurance vs. Kenneth Minarik, Cause No. A-1643.

Dated this 29th day of November, 2005.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Respondent by mailing a copy to Respondent at 2629 North 130th Street, Omaha, Nebraska 68164, by certified mail, return receipt requested, on this 29th day of November, 2005.

Tracy A. Guhn